UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CONEY ISLAND PREP; LESLIE-BERNARD JOSEPH; HOUSING WORKS, INC.; CHARLES KING; MARK LEVINE; and ALEXANDRA GREENBERG,	:	
Plaintiffs,	:	No. 2020 - _____
-against-	:	
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX. M. AZAR II, *in his official capacity as Secretary of Health and Human Services*; DR. ROBERT KADLEC, *in his official capacity as Assistant Secretary of Health and Human Services*; CENTERS FOR DISEASE CONTROL AND PREVENTION; DR. ROBERT R. REDFIELD, *in his official capacity as Director for the Centers for Disease Control and Prevention*,	:	
Defendants.	:	

DECLARATION OF DR. IRWIN REDLENER
IN SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

I, Dr. Irwin Redlener, under penalty of perjury, state as follows:

1. I am a medical doctor, specializing in pediatrics and a recognized national expert and spokesperson on disaster preparedness and pandemics.

2. I am the Founding Director of the National Center for Disaster Preparedness ("NCDP"), Director of the Pandemic Resource and Response Initiative ("PRRI") and Senior Research Scholar at Columbia University's Earth Institute. I am also Co-Founder and President Emeritus of the Children's Health Fund, an organization dedicated to ensuring high quality health care to America's most disadvantaged children.

3. I have more than four decades of experience providing healthcare to medically underserved children in rural and urban communities throughout the U.S., beginning as a pediatrician in the Arkansas Delta, directing a pediatric intensive unit, and founding a child abuse and neglect program in South Florida. We also developed multiple programs in the aftermath of the 9/11 attacks. I have been a formal and informal adviser to presidents of the United States and various cabinet members since 1993, when I served as special consultant to the National Health Reform Task Force for the Clinton White House. In recent years, I have worked with key members of the U.S. Congress on disaster preparedness and concerns around children's health. I served as a principal developer and President of the new Children's Hospital at Montefiore in the Bronx, created a series of direct medical relief programs and public health initiatives in the Gulf region ravaged by Hurricane Katrina, and worked on behalf of migrant children at the Southwest U.S. border. I have also taught medical students in rural Honduras and have led or assisted in international disaster relief in Central America and Africa. In addition to medical and public health work, I have written two books—one on improving children's healthcare and wellbeing in America and the other on the country's lack of preparedness for large-scale disasters—and over 80 publications in academic journals and other periodicals.

4. This year, I have worked extensively in response to the Covid-19 pandemic. As the Founding Director of the NCDP at the Earth Institute, we are dedicated to providing research, policy and best practice guidance to enhance readiness for mega-disasters, foster community preparedness and engagement, understand population vulnerability, and explore strategies to improve disaster recovery. As a result, addressing the threat posed by Covid-19 has been squarely within our mission. In response to the need for relevant resources and commentary, NCDP launched a Covid-19 website, focused on ensuring a rapid, evidence-based response to

the Covid-19 outbreak, while also working to protect the physical and mental well-being of those that are most vulnerable. The site is updated on a regular basis with expert commentary, tools and resources, and virtual events.

5. In the wake of Covid-19, we at NCDP also established the PRRI, where I serve as Director. The PRRI is dedicated to providing solid, reliable insights, information, and perspectives on the evolving issues related to Covid-19. We also provide personal protective equipment ("PPE") and other resources to underserved health clinics and communities across the U.S., to ensure that people in both rural and urban communities have access to adequate medical care during the crisis. Furthermore, we provide messaging and scientific guidance regarding the pandemic to government, media, corporations, non-profit organizations, and the public about the on-going issues which will continue to emerge for the foreseeable future. We engage experts in public health, disease modeling, pandemic development and control, medical research, economics and business, sustainable development, law, communications, and other disciplines from the greater Columbia community and beyond to help promote and derive innovative strategies to deal with this global threat. We assist corporations, agencies, and non-governmental organizations in creating pandemic related short or long-term strategies for business continuity, adaptation or reimagining missions, visions, and new work-place rules. We focus on the health and well-being of health care workers on the frontlines of caring for large numbers of Covid-19 patients—and the critical integrity of supply chains that are needed across the nation. We provide critical guidance to the public and political leaders across America (rural and urban) and, as requested, across the world, where resources are especially short and in communities that are economically depressed, medically underserved, economically fragile, and highly vulnerable.

6. During the pandemic, I also provide on-air expert analysis for NBC and MSNBC, where I have served as a public health analyst since March 2020. I have also written numerous articles outlining the threat and various issues related to the novel coronavirus and have been cited and quoted in a multitude of news outlets such as *The New York Times*, *The Washington Post*, *The Hill*, *The Daily Beast*, CNN, National Public Radio, and many others.

7. In addition, I also serve as a special advisor on emergency preparedness to New York City Mayor Bill de Blasio, whom I regularly advise on policies affected by the pandemic, including school closings and reopening, business reopening, and other public health protocols. I also regularly communicate with the leadership of the U.S. Departments of Health and Human Services ("HHS") and Homeland Security, as well as the Centers for Disease Control and Prevention ("CDC").

8. Public health, as a discipline, is concerned with community health in the aggregate and focuses on population protection, disease prevention and health promotion. In service of those ends, public health practitioners use methods such as biostatistics, epidemiology, social and behavioral sciences, environmental health sciences, to direct policy and public advocacy. Accordingly, much of our work is focused on building knowledge and then disseminating it to produce effective public health outcomes in our communities of concern, whether that be a vulnerable population, or a city, or a state, or the nation as a whole. This process is directed not just at improved policy measures but also at improved public conduct, helping people become the best agents in defense of their own health and the health of others. Arming the public with transparent and accurate public health information inoculates it against the public health threats it faces. This is especially true in pandemics where the threat is

invisible, and public health outcomes depend on a wide degree of public information, coordination, and cooperation.

9. As an academic and physician, I require accurate and complete information as to the Covid-19 virus and the progress of the pandemic in order to advise policymakers, health providers, the public, and entities like schools and community health organizations that are charged with the health of their members. Moreover, as part of these roles, I regularly compile, analyze, and communicate key lessons and best practices to the public from relevant reports, statistics, and policy.

10. Throughout the pandemic, public officials have used inconsistent methodologies and criteria for designating cases of infection and death from Covid-19. Some of these variations are related to inconsistent testing accuracy and supply, forcing governments and health providers in some areas to ration tests to certain populations and leaving others unmonitored. Other variations are related to a lack of clear guidance from the federal government—leading to differences in the ways that localities categorize cases and deaths: for example, an untested patient suffering or who has died from pneumonia is likely to be Covid-positive, but can be left out of official counts by some health agencies versus others. As a result, the country has been presented with patchwork reporting as to the progress of the pandemic, and public health officials and experts, like myself, struggle with the consequence gaps in official information.

11. As Director of the PRRI, I lead projects that depend on fulsome accurate information to design effective responses to the Covid-19 pandemic and its collateral consequences. We provide guidance to government, non-profit organizations, private sector companies, the media, and the public including best practices, rules and regulations; engage experts in public health, disease modeling, pandemic development and control, medical research,

economics and business, sustainable development, law, communications, and other disciplines from the greater Columbia community and beyond to develop innovative response strategies; safeguard the health and well-being of frontline and essential workers; defend the integrity of national and international supply chains; provide policy guidance to serve underserved and vulnerable communities; as well as offer PPE, treatment and testing through clinical partner organizations. Our work depends on access to the latest and most complete information available with respect to national public health generally, but specifically the nation's public health infrastructure, the nature of the Covid-19 virus and its specific transmission through different areas of the country, the specific vulnerabilities of different communities and persons, and the robustness of federal, state, and local responses. Any failures to provide mandated public health data and reporting as required puts public health organizations like ours, the stakeholders or communities we serve, and the public who depend on our work at a severe disadvantage and robs us of critical information upon which we all depend.

12. If the federal government has obligations to standardize and collect health statistics from the state and local level, and if the government has duties to perform what we in public health call "biosurveillance"—widely understood as comprehensive testing and tracing of the virus' transmission—those efforts are essential to effectively combatting the pandemic. They provide public health officials, academics, and practitioners with the necessary near real-time information that we need in order to tailor policy and guidance to evolving and sometimes rapidly changing conditions. Moreover, such up-to-date data arms the public with the information it needs to guide its own decision-making at the community, family, and individual level and to efficiently and effectively protect itself against Covid-19 without undue cost to livelihoods, educations, and well-being.

13. It is my understanding that the federal government has withheld a number of duties to public disclosure and participation to which I am entitled: 1) recent legislation passed on a bipartisan basis requires the development and implementation of a federal biosurveillance network, providing for participation in and the creation of a network for "near real-time" information during a public health emergency, deadlines for which have not been met; 2) a number of reports and public disclosures that relate to the nation's preparations and response to public health emergencies, the nation's underlying public health, health disparities along race and ethnicity, and Covid-19 specifically; and 3) opportunities to participate in the regulatory and rulemaking process whereby I could contribute my experience in emergency and infectious disease management, and specifically as to the Covid-19 pandemic.

14. It is my understanding that as a result of legislation passed by Congress in 2019, the federal government is obligated to take steps towards implementing a comprehensive national biosurveillance network, and that it has failed its duties to date. As a result, I have been denied important opportunities to participate in the development and design of the nation's crucial biosurveillance infrastructure and have lost important opportunities to lend my expertise and advocacy for necessary attributes and outcomes.

15. Furthermore, the reports and information that the government has failed to provide are essential to the ongoing operations of my academic and public health practices. The reports on health disparities along race and ethnicity are of special concern given the disparities we have seen from Covid-19. Black and Hispanic communities have been especially hard hit by the virus, suffering infection and death at two to three times the rate of white counterparts. Throughout my career, my work has been concerned with mitigating the health disparities and inequities faced by America's most vulnerable communities. This latest pandemic has shined a

light on those disparities, and these reports in particular are critical to understanding how these communities are disproportionately impacted and what policies are needed to redress these inequities.

16. Specifically with respect to reopening schools, decisionmakers—public officials, school administrators, and parents—must weigh the education needs of their children against the public health and safety of the school and wider community. America's children deserve to resume their education to the fullest capacity public health can allow, especially those students who were already disadvantaged and who have been placed in difficult positions as a result of the pandemic. However, this can only be done where various indicators related to the virus' prevalence, advances public health interventions, community compliance with mitigation guidance, and other relevant factors indicate that returning to school can be done safely. As a result, such decisionmakers need to be armed with the fullest information available with respect to the virus' transmission and the capacity for the government to respond effectively. They need complete information not just with respect to their own community but also with respect to communities across the country who have faced and are facing similar decision points. The data from their decisions will help us understand their successes, challenges and failures. In a national pandemic, we must safeguard one another through responsible public health mitigation, and we must take lessons from each other's experience.

17. Instead, American teachers and parents have been getting mixed messages and incomplete information from the federal government with respect to the seriousness and dangers of the Covid-19 pandemic and its impact on schools. Notably, the CDC has revised its guidelines with respect to school operations during the pandemic, initially cautioning schools from

reopening hastily and later encouraging schools to open for the sake of prospective benefits to parents' employment and local economies.

18. While the government has provided some data and analysis with respect to infection and transmission at various ages, the government has provided no concrete data with respect to outcomes in schools or other congregate childcare settings over the past several months. That data is inconsistently available from certain states and localities whose schools and daycare centers, for example, did not close or closed later than others, and that information would be essential to all states and localities today weighing the question of whether to reopen schools and to what degree. We expect such data to be part of a number of the above-mentioned reports that have not been forthcoming as well as important criteria to include in the design of any effective biosurveillance program.

19. Schools especially will benefit from the near real time information that federal biosurveillance efforts can provide. School administrators can use concurrent information about prevalence and transmission rates to tailor the structure of school operations and to decide what aspects of each age's education is best held in-person or remotely. Equally, parents know their own lives and families best: they may face different risks due to their own employment and other exposure, and they may face different vulnerabilities due to the age and health of family members in their care. Arming individuals with near real time information with respects to the threats posed by Covid-19 in their communities will help them make reasonable decisions about how to protect themselves and others with respect to how they engage schools and their children's education.

I swear under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: October 28, 2020

DR. IRWIN REDLENER